

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

YINTAO YU,
Plaintiff,

v.

BYTEDANCE INC., *et al.*,
Defendants.

Case No. [23-cv-04910-SI](#)

ORDER RE: DISCOVERY

Re: Dkt. No. 106

The parties have submitted two discovery disputes to the Court for resolution.

I. Deposition of Yiming Zhang

Yu wishes to take the deposition of Yiming Zhang, one of the founders of ByteDance Ltd. and the former CEO of ByteDance Ltd.¹ Yu asserts that Zhang has personal knowledge of relevant facts because Zhang's signature appears on three of the documents at issue in this case. Yu also asserts that Zhang "had several direct negotiations about the terms of Mr. Yu's employment." Dkt. No. 106 at 4.

Defendant ByteDance Inc. ("BDI") objects to the deposition on several grounds. BDI asserts that Zhang, who lives and works in Asia, "lacks specific information and was not personally involved in the negotiation or execution of any of Yu's contracts." *Id.* at 1. BDI states that it provided nine interrogatory responses explaining that two other employees, Jinmei Xiao and Meili Wu, executed the agreements on BDI's behalf and outside Zhang's presence by applying Zhang's "authorized signature stamp," and that a third witness, Linlin Fan, saw Yu wet-sign two of the

¹ It is not clear from the parties' letter brief what position Zhang currently holds, though BDI describes him as a "senior executive."

1 agreements. BDI states that it offered to produce these witnesses for deposition in either South
2 Korea or Singapore (the witnesses live in Asia), but that Yu declined. BDI also states that in
3 response to a Rule 30(b)(6) deposition notice about, *inter alia*, the signing of Yu's contracts, it
4 offered to produce witnesses with first-hand knowledge of the signing of Yu's contracts in South
5 Korea or Singapore, but that Yu refused the offer of depositions in Asia and so instead BDI will be
6 producing one or more U.S.-based deponents who will recount BDI's understanding.

7 The parties agree that Mr. Zhang's deposition qualifies as an "apex" deposition. "In
8 determining whether to allow an apex deposition, courts consider (1) whether the deponent has
9 unique first-hand, non-repetitive knowledge of the facts at issue in the case and (2) whether the party
10 seeking the deposition has exhausted other less intrusive discovery methods." *Apple Inc. v. Samsung*
11 *Elec. Co., Ltd.*, 282 F.R.D. 259, 263 (N.D. Cal. 2012) (internal quotation marks and citations
12 omitted).

13 Based on the record before the Court, it is not clear whether Zhang has unique, first-hand,
14 non-repetitive knowledge about the negotiation and execution of Yu's contracts. However, the
15 Court finds that Yu has not exhausted other less intrusive discovery methods, including
16 interrogatories directed at Zhang, the offer of depositions of Xiao and Wu, and the Rule 30(b)(6)
17 depositions. Accordingly, the Court QUASHES the deposition notice to Zhang, without prejudice
18 to renewal if Yu can make a greater showing of the need to depose Zhang.

19 **II. Deposition of Wei "Ronnie" Hua**

20 Hua is BDI's Head of Human Resources and Management. Yu asserts that Hua oversaw his
21 onboarding and that "months after Mr. Yu joined BDI, Defendant Gao reported to Mr. Hua BDI's
22 failure to obtain onboarding paperwork from Mr. Yu." Dkt. No. 106 at 3. Yu also asserts that Hua
23 "regularly apprised Mr. Zhang on the status of Mr. Yu's employment negotiations, including the
24 status of negotiated agreements." *Id.* Yu also notes that BDI already offered to produce Hua in
25 South Korea, and thus that he should be produced – but in Seattle, because BDI previously
26 represented that Hua works in Seattle.

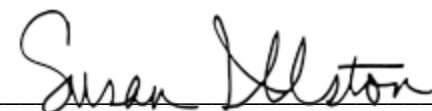
27 BDI asserts that Hua was not involved in the formation of the contracts at issue, and that
28

BDI has identified Xiao, Wu, and Fan as three fact witnesses involved in the execution of the contracts. BDI also states that it previously mistakenly told Yu that Hua was based in Seattle, but that he currently lives and works in Singapore, and thus any deposition of Hua would have to take place in Asia.

Given BDI's prior offer to make Hua available for deposition, the Court is not persuaded that Hua does not have relevant information. Thus, the issue is where he should be deposed. "A subpoena may command a person to attend a trial, hearing, or deposition only as follows: (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person." Fed. R. Civ. P. 45(c)(1)(A). If Hua does in fact live, work, and regularly transact business in Singapore, he should be deposed in Asia, and if Hua lives, works, or regularly transacts business in Seattle, he should be deposed in Seattle. The Court directs BDI to file a declaration signed under oath stating where Hua lives and works, and whether Hua "regularly transacts business" in Seattle. The declaration shall be filed no later than **August 2**.² Assuming BDI files a declaration stating that Hua lives, works and regularly transacts business in Singapore, Yu may depose Hua in Asia at a mutually agreeable location, or Yu may coordinate with BDI to take a remote deposition of Hua.

IT IS SO ORDERED.

Dated: July 23, 2024



SUSAN ILLSTON
United States District Judge

² In the Court's June 7, 2024 discovery order, the Court directed BDI to file several declarations under oath. *See* Dkt. No. 98 ¶¶ 3-4. To date, BDI has not filed the declarations. By August 2, BDI shall file the declarations ordered in the June 7 order by August 2, or BDI shall file a letter explaining why it has not yet filed those declarations.